



Request For Variance

State Form 51184 (12/02)
Food Protection Program

INDIANA STATE DEPARTMENT OF HEALTH

Telephone: 317/233-7360

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1. Individual Submitting Request:

Date: 5 April 2007

Name: James Brewer

Telephone: (425) 760-0814

Fax: (425) 397-7211

Mailing Address:

Email: jamesb@dreamdinners.com

Number & Street

889

Snohomish

WA

98291

P.O. Box

City

State

Zip Code

2. Person/Organization Seeking Variance:

Name: Dream Dinners Inc.

Telephone: (425) 397-3511

Fax: (425) 397-7211

Mailing Address:

Email:

Number & Street

889

Snohomish

WA

98291

P.O. Box

City

State

Zip Code

3. Food Establishment(s) for Which Variance is Sought

Include the following information for each food establishment: (List here or attach additional pages if necessary)

- Physical Location #1: DD395 Green Street Square
- Mailing Address: 1551 N. Green Street, Suite J Brownsburg, IN 46112
- Telephone Number: (317) 697-2547 Fax Number: (317) 842-1131
- Person at each retail food establishment most responsible for supervising: Kent Hiller (franchise owner)
- Physical Location #2: DD298 96th Street
- Mailing Address: 9520 Uptown Drive, Suite H Indianapolis, IN 46256
- Telephone Number: (317) 842-1130 Fax Number: (317) 842-1131
- Person at each retail food establishment most responsible for supervising: Kent Hiller (franchise owner)
- Physical Location #3: DD226 Carmel Walk
- Mailing Address: 1315 S. Rangeline Road Carmel, IN 46032
- Telephone Number: (317) 566-8220 Fax Number:
- Person at each retail food establishment most responsible for supervising: Luanne Scudder (franchise owner)
- Physical Location #4: DD115 Grape Road
- Mailing Address: 4609 Grape Road, Suite A-1 Mishawaka, IN 46545
- Telephone Number: (574) 272-0720 Fax Number:
- Person at each retail food establishment most responsible for supervising: Jean Rupert-Boling (franchise owner)

4. State how the proposal varies from each rule requirement, citing relevant rule sections by number:

(Attach additional pages if necessary)

The Dream Dinners located in the city of Brownsburg has been requested by Devon Brennan with the Hendricks County Department of Environmental Health and Food Protection to alter our operational usage of the *Customer Refrigerator*. The cited rule is 410 IAC 7-24-173 (B), which states that "different proteins (unless combined in a recipe) are to be kept separate during storage, preparation, holding, and display". It is the position of Dream Dinners that this rule does not apply to the specific operational use of the *Customer Refrigerator* and for that reason we are requesting a variance.

Dream Dinners is the founder of the meal assembly industry and as such have had many discussions with regulatory agencies to determine how our operations are interpreted. We believe that our operations are similar to a small specialty grocer where customers buy our products and take them home for subsequent cooking. The difference is that the customer follows our recipes to assemble pre-cut ingredients in our store rather than at home. After these recipes are assembled into individually packaged entrees, Dream Dinners directs our customers to place each fully packaged entrée into the *Customer Refrigerator* for holding until all entrees are assembled (typically a customer assembles 12 entrees during a session). After the session a Dream Dinners employee removes the entrees from the *Customer Refrigerator* and packs them into the customer supplied cooler for transport home.

The *Customer Refrigerator* for us acts as the "grocery store shopping cart" for holding the entrees. Dream Dinners has instituted its use to ensure customers meals are kept at proper refrigerated temperatures for the duration of the session. Each refrigerator is compartmentalized into 12 sections, each section is for holding individual customers meals. (Dream Dinners does not allow more than 12 customers to attend a session) It is at this point that Mr. Brennan and the Hendricks County Department of Environmental Health and Food Protection is now requiring the customers to intermix their entrees with other customers in the same sections and keeping like proteins together. (i.e. on the bottom of the *Customer Refrigerator* all poultry entrees would be intermixed for different customers, the next shelf up all beef entrees would be intermixed, etc...)

5. Explain how the potential public health hazards and/or nuisances will be alternatively addressed by the proposal. Include supporting studies, Hazard Analysis Critical Control Point (HACCP) Plan(s), standard sanitation operating procedures, and/or any other evidence: (Attach additional pages, if necessary.)

Dream Dinners is very concerned about food safety, for this reason we have implemented multiple checkpoints to ensure proper handling, one of which is the use of the customer refrigerator. Included as attachments are the HACCP, a *Food Safety Program* document and *Store Operations Summary*. The following are some of the steps we take:

- Customers register for a session through the internet and select: a session time, entrees, and pre-pay for their entrees. Through this process we are able to maintain tight control of inventory levels, food freshness, and minimize waste.
- Sessions are limited to 12 customers per session with 1 employee on hand for every 4 customers. This allows the PIC (Person In Charge) (Serve Safe Certified*) and other employees to observe the customers and ensure proper food handling practices.
- Customers are reintroduced to the "Terms and Agreements" prior to the start of the session during the introductory "Meet and Greet". At this time the PIC will personally address proper hand washing technique and glove use. In

addition, the PIC has the authority to excuse from the session anyone exhibiting signs of illness or other health concerns. The PIC will state the warning that all food is “Not Ready to Eat”.

- Persons showing illness or are under the age of 13 are asked to leave.
- Single use gloves are provided at each station and are required to be used.
- Entrees are assembled in either a Ziplock bag and double bagged or a foil pan with lid and sealed with cling wrap to prevent spillage during handling and storage. Additionally most proteins unless combined in a casserole are individually bagged within the entrée bag.
- Sessions last for about 2 hours, after each entrée is assembled the customer is directed to store their meals in the *Customer Refrigerator*. Through use of the refrigerator we are able to insure that assembled entrees are kept at proper holding temperatures.
- Once all entrees are assembled, a Dream Dinners employee transports the entrees from the *Customer Refrigerator* to the customers cooler. At this time the Dream Dinners employee ensures the customer has the correct entrees and inspects them for proper labeling of cooking instructions.
- Upon leaving the customer is given our "Leave With Love" speech which reiterates the proper handling and cooking instructions which are noted on the label of each entree.

It is through these steps that Dream Dinner is able to maintain food safety and ensure a quality and healthy product to our customers. Were we not able to maintain our current use of the customer refrigerator it would become a hindrance to food safety. Organizing similar proteins together would intermix customers entrees and greatly add confusion to the checkout process and the Dream Dinners employee would be more focused on getting entrees sorted out than ensuring proper labeling.

6. List how the proposal demonstrates the following (if applicable to the request):

A) How the proposal differs from what is common and usual in similar industry situations:

The purpose of this variance request is to be treated in an approach to similar industry standards for grocers. In a grocery environment the customer is allowed to intermingle differing proteins in the same grocery cart. Additionally the customer is also allowed to intermix toxic chemicals (i.e. cleaning agents, pesticides, etc...) with food including ready to eat produce. Lastly, unlike a grocer, each entrée contains specific cooking instructions and temperatures which follow ServSafe guidelines.

B) How the proposal is unique and not addressed in existing rules or law:

Meal Assembly is a relative new industry that began with Dream Dinners initial franchisees in 2003, existing rules and laws have been written for the grocery and restaurant industries but have not addressed Meal Assembly and customer handling of foods which they assemble and cook at home. Indiana does not require Dream Dinners to have a Customer Refrigerator, many of our competitors direct customers to place assembled entrées in un-refrigerated personal coolers for up to 2 ½ hours. By taking the additional step to ensure food safety w believe we are unfairly being regulated to comply to a law that does not apply to our situation.

C) How the proposal does not diminish the protection of public health:

By using a *Customer Refrigerator* Dream Dinners is already taking a step beyond what is required by the health agency and how many competitors operate. It's use ensures that entrees are kept at proper handling temperatures for the duration of the customers session. It also enables our employees to check labeling of each entrée at the end of the session as they transfer entrees to the customers coolers.

Furthermore, Dream Dinners suggested that we could use plastic bins or similar type of shelving that prevents contamination between vertical shelving dividers. However this was immediately rejected by Mr. Brennan.

D) How the proposal is based on new scientific or technological principle(s): N/A

E) How the implementation of the variance would be practical:

Use of the Customer Refrigerator is a practical device in the meal assembly industry to ensure proper food storage.

Explain how the person/organization seeking the variance will assure that all provisions of a granted variance will be enacted at each food establishment for which a variance has been granted:

- Dream Dinners designs each store in the home office and requires the use of the customer refrigerator.
- Prior to opening the Franchise operator is required to attend a 4 day training session at the Home Office where health standards are discussed in detail.
- For each session Dream Dinners requires the PIC (Person In Charge) to be ServSafe certified.
- Upon opening, a coach from the home office is on site for training to ensure all standards are met.
- During operation, twice a year a coach visits each store to ensure continued compliancy to Dream Dinners standards.

8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: (Attach additional pages if necessary)

Dream Dinners is only aware of itself that is seeking the variance, however some of our competition also utilize a *Customer Refrigerator* in the same manner and would be effected by the outcome of this decision.

9. Attach copies of any related variances, waivers or opinions issued by other governmental agencies. Dream Dinners has 198 open outlets and 63 additional outlets in development. We are located in 33 states and 149 counties, all with the exception of Hendricks County in Indiana have accepted our operational use of the *Customer Refrigerator*. Included in these jurisdictions are some industry leaders like DuPage County in IL, Maricopa County in AZ, and LA County in CA.

Attachments:

HACCPP.PDF

Store Operations Summary. PDF

10. Signature of Individual Making Request:

Printed Name, Title: James Brewer, Construction Manager

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